IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13213 of 2004

Between:

Dr. V. Venkata Ramana, S/o V.A. Swamy,
R/o Flat No. 13, Phase II Belvedere Gardens, Padma Rao

Nagar, Secunderabad.

..... PETITIONER

AND

1 The Commissioner of Police, Basheerbagh, Hyderabad.
2 The Inspector of Police, Chilkalaguda Police Station,

Secunderabad.
3 K.S.N. Rao (K.S. Rao), S/o K. Seetha Ramaiah,

Occ: Deputy Manager (Materials),
National Mineral Development Corporation (NMDC),

Masab Tank, Hyderabad.
4 Lakshman,
Masab Tank, Hyderabad.
5 Shivam, (alias Prasad),
C/o K.S.N. Rao (K.S.Rao), S/o K. Seetha Ramaiah,

aged about 45 years, Occ: Deputy Manager (Materials),
National Mineral Development Corporation (NMDC),

Masab Tank, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other writ or direction more particularly in the nature of Writ of mandamus to declare the inaction of the 2nd respondent in not registering a case pursuant to the complaint dated 12-6-04 and the action of the 2nd respondent and his sub - ordinates in interfering in civil disputes with connivance of respondents 3 to 5 as illegal, arbitrary and unconstitutional.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondents: GP FOR HOME

The Court made the following :

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ORDER:

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The petitioner seeks a declaration that the alleged inaction on the part of the 2nd respondent-Inspector of Police, Chilkalaguda Police Station, Secunderabad, in registering a case pursuant to the complaint dated 12-06-04, and also the interference by the 2nd respondent and his subordinates in civil disputes with connivance of the respondents 3 to 5, is arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is stated that the 3rd respondent has entered into an agreement of sale dated 11-8-1997 with M/s Venkateswara Rao and M/s Sri Sai Balaji Constructions in respect of flat No.103, First Floor, Manpreeth Enclave, Humayun Nagar, Hyderabad. The wife of the petitioner is one of the partners of Sri Sai Balaji constructions. The possession of the

flat was delivered to the 3rd respondent on 01-01-1998. It appears that the 3rd respondent filed O.S.No.1483 of 2001 on the file of the I Senior Civil Judge, City Civil Court, Hyderabad for specific performance of agreement of sale. The petitioner states that as a matter of fact, in the said suit no relief was claimed against his wife and the allegation was only against one Venkateswar Rao. It also appears that the petitioner's wife died on 28-8-2002, and the suit is still pending. While so, on 10-06-2004, the 5th respondent trespassed into the flat of the petitioner and misbehaved with the daughter of the petitioner. Again on the same day, in the night he received a threatening call on the phone from the 5th respondent. It was followed by another threatening call from one Mr.Narsing Rao, Inspector ACB, M.J. Market. Again on 12-06-2004, the respondent Nos. 3 to 5 trespassed into the house of the petitioner and started abusing the petitioner and also beat him. On the same day, they came along with two constables and summoned the petitioner and his son to Chilkalguda Police Station and threatened them with dire consequences demanding that the petitioner should somehow see that Hanumara Venkateswar Rao executes sale deed in his favour in respect of the suit schedule flat. The petitioner explained to the 3rd respondent that he has nothing to do with the building construction activities and that his wife, who has executed the sale deed, is no more. In the circumstances, the petitioner lodged a complaint before the 2nd respondent-Inspector of Police, but he refused to receive the same. Then the petitioner sent a copy of the complaint dated 12-06-2004, through speed post to the 2nd respondent, which was received by him on 15-07-2004. But, however no action was taken. Since the respondent Nos. 3 and 4 continued to make the phone calls and they have been proclaiming that they have got influence with the police and that the police will not take any further steps on his complaint, the petitioner apprehends that no justice will be done to him. Hence, this writ petition.

On behalf of the respondent Nos. 1 and 2, a counter affidavit has been filed stating that on 12-06-2004, the petitioner was summoned to the Police Station on receipt of a complaint from the 3rd respondent-Sri K.Satyanarayana Rao, in which he stated that he booked one flat at Manpreet Enclave, Mehdipatnam by paying Rs.9.4 lakhs to one Dr.Venkata Ramana (the petitioner), but he did not register the same in his name. On the basis of the said complaint, an entry was made in the General Diary and Dr.Venkata Ramana was also summoned for enquiry. The petitioner also

lodged a complaint stating that the respondent Nos.3 to 5 trespassed into his flat on 12-06-2004 and beat him. On the basis of the said complaint, a separate entry has been made in the General Diary and the petitioner was advised to go to the hospital for treatment for the injuries received. After necessary enquiry with both the parties, the then Sub Inspector of Police found that the dispute is purely civil in nature and therefore, advised both the parties to approach Civil Court for redressal and the same was entered in the General Diary. As both the parties agreed for the same and they did not want any further steps, no case was registered. Thus, according to the respondents, there is no inaction on their part as alleged by the petitioner.

Though the petitioner filed an affidavit in reply disputing the version of the respondents 1 and 2, on a careful consideration of the entire material on record, I find force on the specific plea taken by the respondent Nos.1 and 2 that the dispute is of a civil nature. So far as the allegation against the respondent Nos.1 and 2 is concerned, I am of the view that since they have already made the necessary enquiry and found that the matter is purely of civil nature, it cannot be said that there is any inaction on the part of the respondents.

It is also the specific case of the respondents 1 and 2 that both the parties did not want to take any further steps and therefore no case was registered. Nothing has been placed before this Court to disbelieve the said version of the respondents 1 and 2. They have also categorically denied the allegation that the petitioner is being called to the Police Station. The said statement is placed on record and it is made clear that the respondent Nos.1 and 2 shall not summon either the petitioner or his son without following due process of law, if no crime is registered against them in connection with any offence. In case their presence is required in connection with the investigation in any other case, the respondents may do so strictly in compliance with the procedure prescribed under the law.

However, so far as respondent Nos. 3 to 5 are concerned, the grievance of the petitioner is that they have been interfering with the possession of the petitioner and making threatening calls. If the petitioner is still aggrieved, it is open to him to make a fresh complaint before the 2nd respondent, in which event, the same shall be considered in accordance with law.

With the above observations, the writ petition is disposed of. No costs.

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vs 23-09-2004

To

1 The Commissioner of Police, Basheerbagh, Hyderabad.
2 The Inspector of Police, Chilkalaguda Police Station,

Secunderabad.

3 Two CCs to the G.P for Home, High Court Buildings,

Hyderabad(O.U.T).

4 Two CD copies.